

REMARKS

Pending claims 1, 2, and 4-18 stand **rejected** under 35 U.S.C. 102(b) as being anticipated by Alperovich et al., (WO 99/57927 -- hereinafter **Alperovich**); the Examiner's reasoning for rejecting these claims is set forth in detail in the sequel.

*(Applicants' note: it appears that claim 3 was also rejected under U.S.C. 102(b) as being anticipated by **Alperovich** because the only grounds for the rejection was reference to the abstract of **Alperovich**; accordingly, the Applicants will treat the rejection of claim 3 as a 102(b) rejection.)*

Pending claims 1, 2, 7 and 14 stand **rejected** under 35 U.S.C. 112 because a recitation in each claim lacks antecedent basis. The Applicants have corrected the lack of antecedent basis in the cited claims.

Moreover, the claims are re-numbered to remove duplicate indicia in the claims (namely, claim 13).

Applicants' Preliminary Statement:

The Applicants believe that the subject matter taught and suggested by the cited reference, i.e. **Alperovich**, is fundamentally different from what the Applicants have disclosed and claimed. To distinguish the fundamental differences between the two, it is helpful initially to generally discuss the teachings and suggestions of **Alperovich** in contrast to the Applicants' claimed subject matter. Then the Examiner's contentions are refuted in detail.

Succinctly, at the end of the overview section, the following structural and operational distinctions will be eminently clear.

Alperovich deals with new “header” information pre-pended to a standard SMS message at the transmitter. The receiver is non-standard because a corresponding new SMS application is required to process the new “header” information.

The Applicants deal with the SMS message only (i.e., header information is of no consequence) as follows: an alias field in a non-standard SMS message is processed at the transmitter to produce a standard SMS message which is then propagated to the receiver. The receiver is standard, that is, it does not require any new application.

Discussion of Alperovich

The Applicants believe it is elucidating to summarize the discussion relative to **Alperovich**’s figure 3, the important aspects of which are shown in the attached FIG. A1, so as to crystallize the crux of **Alperovich**’s teachings and suggestions (figure 3 is the only figure with details about **Alperovich**’s inventive subject matter; figures 1 and 2 merely serve as background for figure 3). This discussion of **Alperovich** is divided into two different aspects, namely, a first aspect the Applicants will refer to as “front-end” processing, and a second aspect referred to as “back-end” processing.

Front-end Processing:

With reference to FIG. A1, **Alperovich** teaches/suggests that a new type of “header” is pre-pended to the SMS message 310 (other standard types of pre-pended information might include the source and destination addresses); what is clear is that the new “header” is distinct from the SMS message 310 itself. **Alperovich** then provides examples of the types of information that can be included in new “header”. The following cases are listed:

sub-group header 325: the SMS message is a “private” message intended only for a subset of a group of recipients of the SMS message; header 325 must be pre-stored in the Subscriber Identity Module (SIM 308) in the receiver to have utility (as discussed in more detail shortly).

display header 328: the group identification code indicates the subset of the group to receive the “private” SMS message; header 328 must be pre-stored in the SIM 308 to have utility (as discussed in more detail shortly).

language header 322: the language of the SMS message, so that the SMS message can only be sent in certain acceptable languages; header 322 must be pre-stored in SIM 308 to have utility (as discussed in more detail shortly).

priority header 323: the priority of the SMS message (e.g., urgent), so that only those SIM’s with the assigned priority can handle the SMS message; header 323 must be pre-stored in SIM 308 to have utility (as discussed in more detail shortly).

From this discussion, it is clear that specific, fixed information is pre-pended as an additional “header” by the originator of the SMS message; let us refer to this pre-pending process as generating an “*information-specific header*” augmenting the SMS message. **Alperovich** does not discuss how such pre-pending is accomplished, but such a process is, for the sake of argument, presumed to be known to one of ordinary skill in the art. (It is clear that appending a new “header” is also possible, but such an approach is merely analogous to pre-pending a new “header”.)

FIG. A2 is a block diagram which summarizes the front-end processing of FIG. A1 for later comparison to the Applicants’ processing technique. FIG. A2 highlights the fact that the user inputs specific data, at the moment the SMS message itself is generated, for the “information-specific” header which is then pre-pended directly to the standard SMS message.

Back-end Processing:

The SMS message with the new “header” is then delivered to Mobile Station (MS 300) having and embedded SIM 308 (or other type of memory). As disclosed by **Alperovich**, SIM 308 must contain a new “message application” fixed in the SIM (or other memory) for processing the new “header”. As one example of back-end processing, SIM 308 contains an application that processes sub-group header 325 so that only those Mobile Stations having a value pre-stored in SIM 308 matching the incoming sub-group header 325 are enabled to pass the SMS message to the sub-group. As another example, SIM has an application that processes language header 322 so that only those Mobile Stations having a value pre-stored in SIM 308 matching the incoming language

header 322 can handle the SMS message in the given language. Similar comments apply to the other headers disclosed in **Alperovich**.

Thus it is clear the **Alperovich** changes the manner in which both front-end processing and back-end processing is effected in an SMS system, that is, both non-conventional front-end processing and back-end processing is required by **Alperovich**.

Applicants' Point of Departure

Front-end Processing

Consider as representative of the point of departure of the Applicants' claimed subject matter the discussion of Process **405** on page 10 and the concomitant discussion of Process **425** on page 13 relating to Applicants' FIG. 4, paraphrased as follows with emphasis:

Process 405: A Short Message (SM) is originated in SMS system 200 of Fig. 2 by computer 105 of FIG. 1. When the SM is sent from computer 105, it is directed to the appropriate SMS exchange 205 of FIG. 2. An exemplary message sent from computer 105 to the Internet e-mail address SMdest@isp.com may be of the form "send quote to <myemail>". The value-added service corresponding to this message is the replacement of the alias name between the delimiters '<' and '>', namely, 'myemail', with the actual e-mail address of the originator.

Process 425: The Value-Added Processor (VAP) **320** of FIG. 3 performs value addition functions on the SM based on the stored programs in its memory and the data in the SMS data storage **315** of FIG. 3. For instance, a user may instruct that his email be sent to the recipient of the SM by just typing the keyword 'myemail' in his SM. Such keywords may be distinguished from regular text in the message by enclosing them in delimiters such as the ASCII characters '<' and '>'. The VAP **320** then looks up that user's specific data, based upon the Member ID (**515** of FIG. 5) in the SMS data storage **315**, and inserts the user's full email address in place of the keyword 'myemail'.

As is evident from these two excerpts, the front-end processing as disclosed and claimed by the Applicants relates to the dynamic instantiation of a specific

SMS message based upon (1) a generic field (i.e., alias name) and (2) user-specified data pre-stored in a database at the front-end of the overall SMS system. The first process 405 indicates that the user creates an SMS message with a “*generic-data*” field, e.g., a field identified by delimiters. The second process 425 produces as “*specific-data instantiation*” of the SMS message based upon the “*generic-data*” field and user-specific data pre-stored in a database. The “*generic-data*” field is referred to in the specification as the **value-added field**, and the combination of the two processes 405 and 425 is but one example of the **value-added service** of the specification.

It is very clear that the Applicants’ point-of-departure relates only to the SMS message per se, and has nothing to do with header processes, and certainly not the introduction of a new “header” structure as required by **Alperovich**.

The diagrams of attached FIGS. B1 and B2 summarize the essential elements of Applicant’s FIGS. 1-4 so as to differentiate, in high-level block diagram format, between the teachings and suggestions of **Alperovich** summarized in FIGS. A1 and A2, respectively, and the inventive subject matter of the Applicants. In FIG. B1, user B100 first fills-in user-specific data into database B130. Then, at some future time, as evidenced by the processing of block B110, a “*generic-data*” field may be generated when user B100 prepares a SMS message (e.g., “send quote to my <myemail>”). In turn, both the User ID (via B103) and the “*generic-data*” field (via B104) are sent to Value-Added Processor (VAP) B120 for processing. The user-specific data to be filled into the “*generic-data*” field (e.g. in the <myemail> field) is sent to VAP B120 from database B130 over B106 based upon the User ID arriving via B105. VAP B120 populates the

“generic-data” field using the “user-specific data” to generate the “specific-data instantiation” of the field (e.g., “send quote to john@aol.com”), as evidenced by processing block B140.

By way of reiteration to highlight the distinguishing differences between **Alperovich** and the Applicants’ inventive subject matter, compare the front-end processing of FIG. B2 to that of FIG. A2. In FIG. B2, user B100 creates a non-standard SMS message (B110) which must then be converted to a standard SMS (B140) for propagation. The conversion is accomplished with reference to the “generic-data” field and the user database B130 via VAP B120. Header manipulation is never at issue in the Applicants’ inventive subject matter.

Back-end Processing

Because a standard SMS message is transmitted by the front-end of the system and concomitant method disclosed and claimed by the Applicants, the back-end processing is standard, as depicted in FIG. B1. Thus, whereas **Alperovich** requires non-standard front- and back-end processing, the Applicants deal only with non-standard front-end processing. This clearly makes sense because **Alperovich** and the Applicants each address a different problem, so the solutions should be markedly different.

*Query 1: Where are the teachings and suggestions in **Alperovich** which allow for the dynamic instantiation of a standard SMS message based upon a value-added field within a non-standard SMS message? The Applicants have been unable to discern any such teachings or suggestions in **Alperovich**.*

If the Examiner believes that **Alperovich** teaches or suggests each and every operational step as claimed by the Applicants, the Applicants respectfully request that the Examiner point out with specificity such teachings and suggestions (because the Applicants are unable to find such teachings and suggestions) so the Applicants are presented a reasonable opportunity to refute such contentions.

Teleconferencing Aspect of the Present Inventive Subject Matter

*Query 2: Where in **Alperovich** is there any teaching or suggestion of activities of teleconferencing (as recited in Applicants' claims 6, 12-14, and 19)?*

There is absolutely no teaching or suggestion in **Alperovich** relating to teleconferencing, so there is certainly no teaching or suggestion related to establishing a teleconference via a non-standard SMS message instantiated from both a "generic-data" field, that is, a value-added field, and user input pre-stored prior to initiating the teleconference.

To this end, consider claim 16:

A method for establishing a teleconference via a short message service (SMS) message comprising
embedding a teleconference field in the SMS message by an initiator of the teleconference, and
instantiating the teleconference from the combination of the field as supplied by the initiator and initiator-specific data pre-stored in an initiator database.

Again, without belaboring the point, the Applicants are at a loss to identify where in **Alperovich** the sequence of steps recited by the Applicants are taught or suggested. For instance, where are the teaching or suggestions for the recitations:

“embedding a teleconference field in the SMS message by an initiator of the teleconference”,

or

“instantiating the teleconference from the combination of the field as supplied by the initiator and initiator-specific data pre-stored in an initiator database”
(emphasis added by underline).

The Applicants respectfully request that the Examiner point out with specificity such teachings and suggestions of **Alperovich** for each of claims 6, 12, 13, 14 and 16 (because the Applicants are unable to find such teachings and suggestions) so the Applicants are presented a *reasonable opportunity to refute such contentions*. The Applicants contend that **Alperovich** individually or **Alperovich** and/or the other cited references taken singly or in combination cannot render claims 6, 12-14, and 16 as anticipated nor obvious, as the case may be.

Detailed Discussion of Rejection of Claims 1-18
based upon Alperovich

Examiner's Position as per CLAIM 1: a method for processing a short message service (SMS) message comprising
embedding a value-added directive in the SMS message by the originator of the SMS message, the directive being indicative of a value-added service requested by the originator *reads on* '927 (*abstract*), and
implementing the value-added service based upon the directive *reads on* '927 (*see page 3, lines 1-20*).

Applicants' Contention: The Applicants are especially concerned that the Examiner has not utilized the specification as the "dictionary" to interpret the phrases "value-added field" and "value-added service". It is well-known that the Applicants can be their own lexicographers, and terminology recited in the claims is to be interpreted and understood from the specification if the terminology does not have a standard dictionary meaning or is not known in the art. The phrase "value-added field" was coined by the Applicants to describe a field in a non-standard SMS message to be filled-in with reference to a pre-stored user database, and the phrase "value-added service" is the result of instantiating the combination of generic data supplied by the user via the value-added field and the user-specific data pre-stored in a user database.

Recent Federal Circuit cases have reinforced this point of the Applicants being their own lexicographer. See, e.g., Tex. Digital Sys., Inc. v. Telegenix, Inc., 308 F.3d 1193, 1204 (Fed. Cir. 2002) ("[T]he presumption in favor of a dictionary definition [of a claim term] will be overcome where the patentee, acting as his or her own lexicographer, has clearly set forth an explicit definition of the term different from its ordinary meaning." The language in these cases emphasizes the "use of technical and general-usage dictionaries in determining the ordinary meaning." Id.

Also see Bell Atl. Network Servs., Inc. v. Covad Communications Group, Inc., 262 F.3d 1258, 1268 (Fed. Cir. 2001); Vitronics Corp. v. Conceptor, Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996). ("A long line of cases indicates that evidence intrinsic to the patent -- particularly the patent's specification, including the inventors' statutorily-required written description of the invention -- is the primary source for determining claim meaning." Indeed, that proposition has been accepted doctrine in patent law for many years. See, e.g., Autogiro Co. of Am. v. United States, 384 F.2d 391, 397-98 (Ct. Cl. 1967) ("The use of the specification as a concordance for the claim is accepted by almost every court, and is a basic concept of patent law. Most courts have simply stated that the specification is to be used to explain the claims; others have stated the proposition in different terms, but with the same effect.").

To be sure that the Applicants distinctly point out and clearly claim their inventive subject matter and to assure allowance of Claim 1 and those claims dependent on claim 1, the Applicants have amended Claim 1 to recite the interplay between “value-added field” and “value-added service”; accordingly, besides relying upon the specification as the dictionary, the claim itself explicitly recites how the “value-added service” is derived.

Claim 1 now recites (underline indicates emphasis):

A method for processing a short message service (SMS) message comprising embedding a value-added field in the SMS message by an originator of the SMS message, the field being indicative of a value-added service requested by the originator, and instantiating the value-added service from the combination of the field supplied by the originator and originator-specific data pre-stored in an originator database.

Support for the recitations is found in the specification wherein processes 405 through 445 are discussed commencing on page 10, along with the discussion on page 7 of the specification.

Examiner’s Position as per dependent CLAIMS 2-5: the Examiner merely recites the Applicants’ claims and relies essentially on the Abstract to reject the claims.

Applicants’ Contention: Without belaboring the point, the Applicants have set forth in great detail the differences between **Alperovich** and the Applicants’ inventive subject matter. Moreover, in view of the amendments to claim 1, claims 2-5 are deemed allowable based upon the same rationale that claim 1 is allowable. However, claims 2-5 have been amended to provide proper antecedent bases.

Examiner's Position as per dependent CLAIM 6: the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: As already pointed out in the foregoing discussion,

Alperovich does not teach nor suggest anything related to a teleconference method.

Also, in view of the amendments to claim 1, the claim upon which claim 6 depends, claim 1 is considered allowable as well. However, claim 6 has been amended to provide proper antecedent bases.

Examiner's Position as per independent CLAIM 7: as with independent claim 1, the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: Claim 7 is commensurate with claim 1, and to engender allowance of claim 7, it has been amended to distinctly point out and claim what the Applicants regard as their inventive subject matter.

Examiner's Position as per dependent CLAIMS 8-11: the Examiner merely recites the Applicants' claims and relies essentially on the Abstract to reject the claims.

Applicants' Contention: Without belaboring the point, the Applicants have set forth in great detail the differences between **Alperovich** and the Applicants' inventive subject matter. Moreover, in view of the amendments to claim 7, claims 8-11 are deemed allowable based upon the same rationale that claim 7 is allowable. However, claims 8-11 have been amended to provide proper antecedent bases.

Examiner's Position as per dependent CLAIMS 12 and 13: the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: As already pointed out in the foregoing discussion,

Alperovich does not teach nor suggest anything related to a teleconference method.

Also, in view of the amendments to claim 7, the claims upon which claims 12 and 13 depend, claims 12 and 113 are considered allowable as well. However, claims 12 and 13 have been amended to provide proper antecedent bases.

Examiner's Position as per independent CLAIM 14: the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: As already pointed out in the foregoing discussion,

Alperovich does not teach nor suggest anything related to a teleconference method. To ensure claim 14 is deemed allowable, the Applicants have modified claim 14 to recited what they regard as their inventive subject matter.

Examiner's Position as per independent CLAIM 15: the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: Claim 15 is the system counterpart to method claim 1 and, after amendment, is taken as allowable for the same reasons claim 1 is allowable.

Examiner's Position as per independent CLAIM 16: the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: Claim 16 is a narrow claim which reads on FIG. 2, at least. In view of the foregoing discussion, **Alperovich** does not teach nor suggest the system of claim 16 since Alperovich relates only to a new "header". To ensure claim 16 is deemed allowable, the Applicants have modified claim 16 to recited what they regard as their inventive subject matter.

Examiner's Position as per dependent CLAIMS 17-18: the Examiner merely recites the Applicants' claims and relies essentially on the Abstract to reject the claims.

Applicants' Contention: Without belaboring the point, the Applicants have set forth in great detail the differences between **Alperovich** and the Applicants' inventive subject matter. Moreover, in view of the amendments to claim 16, claims 17-18 are deemed allowable based upon the same rationale that claim 16 is allowable. However, claims 17-18 have been amended to provide proper antecedent bases.

Examiner's Position as per independent CLAIM 19: the Examiner merely recites the Applicants' claim and relies essentially on the Abstract to reject the claims.

Applicants' Contention: As already pointed out in the foregoing discussion, **Alperovich** does not teach nor suggest anything related to a teleconference method. To ensure claim 19 is deemed allowable, claim 19 has been amended to provide proper antecedent bases.

Closing Comments

Based on the foregoing, the Applicants believe that the Examiner has exalted form over substance by drawing the analogy, at a superfluous level, that the Applicants' methodologies relate to the same generic technological field as **Alperovich** and, accordingly, are presumably encompassed by the processing techniques of **Alperovich**. However, the Applicants contend that it is only the teachings of the Applicants, used in hindsight by the Examiner, that has allowed the Examiner, in an attempt to render the Applicants' claims as anticipated by **Alperovich**, to: (1) search for a reference exhibiting what amounts to disparate pieceparts only tangentially related to the

disclosure and overall recitations of the Applicants; (2) select from the cited reference material which is not especially relevant to the Applicants' inventive subject matter; and (3) interpret the reference and bind these pieceparts together in a rather nebulous and not very detailed manner to explain away the combination as "anticipated" without paying attention to the teachings and suggestions of **Alperovich**. The point of departure of the Applicants' subject matter versus the prior art commences by addressing a different problem than that considered by **Alperovich** and, accordingly, arriving at a totally different and distinguishable solution. Thus, the introduction of heretofore unknown processing techniques results in claimed subject matter that clearly distinguishes over **Alperovich**.

Amendment Fee

Finally, there is no additional cost for this amendment since the number of claims remaining after this Response are the same as the number of claims in the original filing and any subsequent amendment(s).

Other Cited References

The other references cited by the Examiner have been reviewed in detail, but the subject matter taught and suggested by these references are not sufficiently pertinent to warrant any further comment.

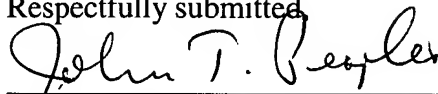
Clear Copy of the Claims

The Applicants have attached a clear copy of the claims to aid the examination process.

Closing Request

The Applicant respectfully requests that the amended claims be reconsidered in view of the foregoing elucidating discussion so that this application may pass to issue with claims 1-19.

Respectfully submitted,



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Date: 10-21-04

Attachments:

FIGS. A1 and A2

FIG. B1

FIG. B2

Clear copy of the amended claims

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